

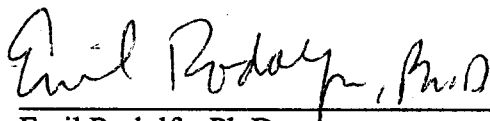
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3 **DECISION AND ORDER**
4 **OF THE**
5 **BOARD OF PSYCHOLOGY**

6
7 **DEPARTMENT OF CONSUMER AFFAIRS**

8
9 The attached Stipulated Decision in case number W218, is hereby adopted as the
10 Decision and Order of the Board of Psychology, Department of Consumer Affairs. An effective
11 date of June 21, 2002 has been assigned to this Decision and Order.

12
13 Made this 22nd day of May, 2002.

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16 Emil Rodolfa, Ph.D.
17 President, Board of Psychology
18 Department of Consumer Affairs
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21
22
23
24

BILL LOCKYER, Attorney General
of the State of California
VIVIEN H. HARA, State Bar No. 84589
Supervising Deputy Attorney General
California Department of Justice
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Attorneys for Complainant

**BEFORE THE
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. W218

WALTER M. FARRELL, Ph.D.
120 Ford Street
Ukiah, CA 95482

**STIPULATION TO SURRENDER
OF LICENSE**

Psychologist's License No. PSY 5603

Respondent.

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Board of Psychology, Department of Consumer Affairs, State of California ("Board"), the parties hereby agree to the following Stipulation to Surrender of License, which will be submitted to the Board for its approval and adoption as the final disposition in Case No. W218

PARTIES

1. Complainant Thomas S. O'Connor is the Executive Officer of the Board of Psychology who brought this action solely in his official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California through Vivien H.Hara, Supervising Deputy Attorney General

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1 7. With these rights in mind, respondent freely, voluntarily, knowingly, and
2 intelligently waives and gives up each and every right set forth above.

3 **ACKNOWLEDGMENTS**

4 8. For the purpose of resolving this Accusation without the expense and
5 uncertainty of further proceedings and although respondent denies the allegations in the
6 accusation concerning his treatment of patient D.R., he agrees that those charges against him, if
7 proven at a hearing, would constitute cause for discipline against his license and that he gives up
8 his right to contest these charges. Respondent acknowledges his conversation with Investigator
9 Holloway and that he did not comply with the Board's Order Compelling Psychiatric or
10 Psychological (Substance Abuse) Examination.

11 9. It is acknowledged that respondent ceased the practice of psychology in
12 November of 2001 for reasons of failing health.

13 10. Respondent desires and agrees to surrender his psychologist's license for
14 the Board's formal acceptance, thereby giving up his right to practice psychology in the State of
15 California.

16 **CIRCUMSTANCES IN MITIGATION**

17 11. Respondent has been licensed by the Board of Psychology since July 17,
18 1978 and has never before been the subject of any disciplinary action.

19 **RESERVATION**

20 12. The admissions made by respondent herein are only for the purposes of
21 this proceeding or any other proceedings in which the Board of Psychology or other professional
22 licensing agency in any state is involved and shall not be admissible in any other criminal or civil
23 proceedings.

24 **CONTINGENCY**

25 13. This Stipulation shall be subject to the approval of the Board. Respondent
26 understands and agrees that Board staff and counsel for complainant may communicate directly
27 with the Board regarding this Stipulation, without notice to or participation by respondent. If the
28 Board fails to adopt this Stipulation as its Order in this matter, the Stipulation shall be of no force

1 or effect; it shall be inadmissible in any legal action between the parties; and the Board shall not
2 be disqualified from further action in this matter by virtue of its consideration of this Stipulation.

3 **AGREEMENT AND ORDER**

4 **IT IS THEREFORE AGREED UPON AND ORDERED** as follows:

5 1. **SURRENDER.** Respondent hereby agrees to surrender his
6 psychologist's license and all other indicia of his right to practice psychology in the State of
7 California to the Board of Psychology or its representative on or before the effective date of this
8 decision, and the Board agrees to accept this surrender in resolution of the matter.

9 2. **COST RECOVERY.** Should respondent seek reinstatement of his
10 psychologist's license, he shall reimburse the Board the sum of \$5,000 for its costs of
11 investigation and prosecution should his license be restored to him and should he then resume the
12 practice of psychology in California.

13 3. **REINSTATEMENT.** Respondent fully understands and agrees
14 that if he ever files an application for relicensure or reinstatement in the State of California, the
15 Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws,
16 regulations, and procedures for reinstatement of a revoked license in effect at the time any such
17 petition is filed, and all of the allegations and causes for discipline contained in First Amended
18 Accusation No. W218 will be deemed to be true, correct, and admitted by respondent for
19 purposes of the Board's determination whether to grant or deny the petition. Respondent agrees
20 that he will not petition for reinstatement for at least three (3) years following the effective date
21 of this decision. Respondent hereby waives any time-based defense he might otherwise have to
22 the charges contained in the Accusation, including, but not limited to, the equitable defense of
23 laches.

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4. Respondent understands that by signing this Stipulation, he is enabling the Board to issue its order accepting the surrender of his license without further process. He further understands that upon acceptance of this Stipulation by the Board, he will no longer be permitted to practice psychology in the State of California.

ACCEPTANCE

I have read the above Stipulation to Surrender of License, and with full knowledge of the force and effect of this Stipulation, I do hereby agree to surrender my license to practice psychology to the Board of Psychology for its formal acceptance. By signing this Stipulation, I recognize that as of 30 days after the effective date of its formal acceptance by the Board, I will lose all rights and privileges to practice as a psychologist in the State of California. I enter into this Stipulation freely, knowingly, intelligently, and voluntarily.

DATED: April 26th, 2002

WALTER M. FARRELL, Ph.D.
Respondent

By agreement of the parties, faxed signatures shall be as binding as original signatures.

ENDORSEMENT

The foregoing Stipulation for Surrender of License is hereby respectfully submitted for the consideration of the Board of Psychology, Department of Consumer Affairs.

DATED: June 27, 2002

**BILL LOCKYER, Attorney General
of the State of California**

Vivien H. Hara
VIVIEN H. HARA
 Supervising Deputy Attorney General
 Attorneys for Complainant

Exhibit A

Accusation in Case No. W218

BILL LOCKYER, Attorney General
of the State of California
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Attorneys for Complainant

BEFORE THE
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

WALTER M. FARRELL, Ph.D.
120 Ford Street
Ukiah, CA 95482

Psychologist's License No. PSY 5603

Respondent.

Case No. W218

**FIRST AMENDED
ACCUSATION**

Complainant alleges:

PARTIES

1. Thomas S. O'Connor ("Complainant") brings this Accusation solely in his official capacity as the Executive Officer of the Board of Psychology.

2. On or about July 17, 1978, the Board of Psychology issued Psychologist's License Number PSY 5603 to Walter M. Farrell, Ph.D. ("Respondent"). The license was in full force and effect at all times relevant to the charges brought herein. Said license expired on November 30, 2001 and is currently in delinquent status..

JURISDICTION

3. This Accusation is brought before the Board of Psychology ("Board"), under the authority of the following sections of the Business and Professions Code ("Code").

A. Section 2960 of the Code states, in pertinent part:

1 "The board may refuse to issue any registration or license, or may issue a
2 registration or license with terms and conditions, or may suspend or revoke the
3 registration or license of any registrant or licensee if the applicant, registrant, or licensee
4 has been guilty of unprofessional conduct. Unprofessional conduct shall include, but not
5 be limited to:

6
7 "(b) Use of any controlled substance as defined in Division 10 (commencing with
8 Section 11000) of the Health and Safety Code, or dangerous drug, or any alcoholic
9 beverage to an extent or in a manner dangerous to himself or herself, any other person, or
10 the public, or to an extent that this use impairs his or her ability to perform the work of a
11 psychologist with safety to the public.

12
13 "(i) Violating any rule of professional conduct promulgated by the board and set
14 forth in regulations duly adopted under this chapter.

15 "(j) Being grossly negligent in the practice of his or her profession
16

17 "(r) Repeated acts of negligence."
18

19 B. Section 2936 of the Code provides, in pertinent part, that the Board shall
20 establish as its standards of ethical conduct relating to the practice of psychology, the code of
21 ethics adopted and published by the American Psychological Association ("APA").

22 C. Section 125.3 of the Code states, in pertinent part, that the Board may
23 request the administrative law judge to direct a licentiate found to have committed a violation or
24 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
and enforcement of the case.

25 D.. Section 2964.6 of the Code states that an administrative disciplinary
26 decision that imposes terms of probation may include, among other things, a requirement that the
27 licensee who is being placed on probation pay the monetary costs associated with monitoring the
28 probation.

1 E. Section 820 of the Code states, in pertinent part:

2 "Whenever it appears that any person holding a license, certificate, or
3 permit under this division . . . may be unable to practice his or her profession
4 safely because the licentiate's ability to practice is impaired due to mental
5 illness, or physical illness affecting competency, the licensing agency may order
6 the licentiate to be examined by one or more physician and surgeons or
7 psychologists designated by the agency"

8 F. Section 821 of the Code states that a licentiate's failure to comply with an
9 order issued under section 820 shall constitute grounds for the suspension or revocation of the
10 licentiate's certificate or license.

11 4. The APA Ethical Principles applicable to this case are as follows:

12 A. Standard 1.13. Personal Problems and Conflicts. Psychologists recognize
13 that their personal problems and conflicts may interfere with their effectiveness. They refrain
14 from undertaking an activity when they know or would know that their problems are likely to
15 lead to harm to a patient.

16 B. Standard 1.17. Multiple Relationships. A psychologist refrains from
17 entering into another (personal or professional) relationship if it appears likely that such a
18 relationship might impair the psychologist's objectivity or otherwise interfere with the effective
19 performance of his functions as a psychologist or might harm the other party.

20 C. Standard 1.18. Barter (with patients or clients. Psychologists ordinarily
21 refrain from accepting goods, services, or other non-monetary remuneration from patients in
22 return for psychological services.

23 D. Standard 1.25. Fees and Financial Arrangements. As early as feasible
24 in a professional relationship, the psychologist and patient reach an agreement specifying
25 compensation and the billing arrangements.

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FACTUAL ALLEGATIONS

5. D.R.¹ met respondent socially in the course of after work social gatherings with a group from the office building in which she and respondent worked. D.R. worked at a business where her office window was in direct line of sight of the front of the office building. The social gatherings took place at a local bar. D.R. learned much about respondent during their talks at the bar, and respondent would focus his attention upon her at these social gatherings. Respondent told D.R. much about himself, his family, and his practice. While D.R. was at work, she often saw respondent entering his office building while intoxicated; he was staggering and holding onto the banister while entering the building.

6. In the latter part of 1998, D.R. was in an automobile accident that caused short term memory loss, and she was taking medication for depression and paranoid symptoms. In or about December of 1998, D.R. asked respondent to see her professionally for assessment and psychological treatment. Even though D.R. knew about respondent's drinking, she described herself as "desperate" and wanting to know what was the matter with her. D.R. thought that respondent, because he knew her, would be better able to assess her problems.

7. D.R.'s first appointment with respondent was on December 31, 1998, and her second appointment was on January 7, 1999. Each time, D.R. smelled alcohol on respondent's breath, but he did not appear intoxicated. D.R. also indicated that on one occasion, the smell of marijuana emanated from respondent's office. Respondent charged, and D.R. paid, \$115.00 for each of these sessions. Itemized bills, including procedure code and respondent's taxpayer identification number were to be provided to D.R.'s health insurance carrier in order for D.R. to receive reimbursement for these payments. Respondent did not provide the itemized bills despite several requests from D.R. D.R. lost the ability to receive reimbursement from her insurance carrier because no itemized bills were presented before the time within which reimbursement would be provided expired

1. Initials are used to protect patient privacy. Respondent will be given the full name of the patient pursuant to any request for discovery.

1 8. D.R. also asked respondent to submit disability forms to her employer for
2 continued Worker's Compensation coverage, and such a form appears in respondent's records for
3 D.R., which records were produced to the board's investigator, Ms. Noelle Holloway, on or
4 about June 19, 2000. The form indicates a diagnosis of "generalized anxiety disorder - 300.02
5 (DSM IV)." D.R. indicated that such a form was never provided to her employer, and that she
6 stopped seeing respondent and engaged the services of another therapist to help her because
7 respondent was unresponsive to her needs.

8 9. On May 19, 2000, board investigator Noelle Holloway went to Ukiah to
9 interview respondent. She went to his office, but found it closed, and she was unable to locate
10 his home, as the address on that street did not appear to exist. She finally found respondent
11 leaving a bar on the street of his home address. In the interview, respondent indicated the
12 following:

- 13 A. He has health problems, chronic obstructive pulmonary disease (COPD)
14 and hemachromatosis and has therefore cut back on his practice, working
15 only about 10 hours a week, mornings only. His patients are mostly older
16 male adults.
- 17 B. He smokes four to five cigarettes a day and drinks two to three times a
18 week, two to three drinks a day, mostly beer and vodka/grapefruit juice,
19 but that he is not an alcoholic and has never attended patients while under
20 the influence.
- 21 C. He occasionally smokes marijuana.
- 22 D. He has bartered his services for vegetables, car service, and garden work
23 in the past and does some work *pro bono*. His office space is rented from
24 friends who are understanding when he is late with his rent.
- 25 E. D.R. was a "very paranoid character disorder personality type." She
26 would look out his window when in his office to see who was there. He
27 was not sure if he had records on D.R. but he would mail Ms. Holloway a
28 copy if he did or provide a treatment summary.

1 **FIRST CAUSE FOR DISCIPLINE**

2 (Gross Negligence/Repeated Negligent Acts)

3 10. Respondent's conduct, as alleged in paragraphs 5 through 9, above,
4 constitutes gross negligence and/or repeated acts of negligence and/or violations of the APA
5 Code of Ethics in that:

- 6 A. He entered into a professional relationship with a personal acquaintance,
7 thereby risking patient harm by impairing his objectivity or allowing
8 his personal feelings for the patient to interfere with the effectiveness of
9 the therapy.
- 10 B. He failed to reach a clear agreement specifying compensation and
11 billing arrangements.
- 12 C. He attended the patient while having alcoholic beverages on his breath.
- 13 D. He entered his office building in an intoxicated state.
- 14 E. He bartered for his services.
- 15 F. He failed to respond to the patient's requests for an itemized bill so that
16 she could receive reimbursement from her health insurance carrier.
- 17 G. He failed to timely provide to the patient's employer and/or to the patient
18 the requested disability evaluation form.

19 11. Therefore, respondent is subject to discipline under section 2960 through
20 section 2960(i), (j) and/or (r) of the Code and section 2936 through APA standards 1.13, 1.17,
21 1.18, and/or 1.25.

22 **SECOND CAUSE FOR DISCIPLINE**

23 (Use of Controlled Substance)

24 12. Respondent's conduct, as alleged in paragraphs 5 through 9 above,
25 specifically paragraphs 5, 7, 9B and 9C, constitutes the use of a controlled substance and/or
26 alcoholic beverage to an extent that the use impaired his ability to perform the work of a
27 psychologist with safety to the public.

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1 13. Therefore, respondent is subject to disciplinary action under section 2960
2 of the Code through section 2960(b).

3 **THIRD CAUSE FOR DISCIPLINE**

4 (Failure to Comply with Order Issued under Section 820)

5 14. On or about January 10, 2001, the Board issued an Order Compelling
6 Psychiatric or Psychological (Substance Abuse) Examination ("Order") to respondent pursuant to
7 a Petition for such an order presented by complainant herein and filed on December 19, 2000.

8 15. On or about December 17, 2000, the Board contacted Arlo Thomas, Ph.D.
9 and asked whether he would be available to do the psychological (substance abuse) evaluation on
10 respondent within the next few months. Dr. Thomas agreed.

11 16. On December 19, 2000, the Petition, Order, and a letter directing
12 respondent to contact Dr. Thomas within 30 days for an appointment to do the evaluation were
13 served by certified mail, return receipt requested, upon respondent at his address of record.
14 These documents were returned to the Board office unclaimed.

15 17. Thereafter, personal service upon respondent of the Petition, Order and
16 letter was attempted at respondent's address of record and other addresses. Many attempts at
17 personal service were made, including eight attempts by the Ukiah police department. In
18 September of 2001, the Board again contacted Dr. Thomas and asked whether he was still
19 available to do the examination, and he indicated he would be available. The letter indicating
20 that respondent must contact Dr. Thomas within 30 days and arrange for the examination was
21 reissued, and personal service of the Petition, Order and reissued letter was finally effected upon
22 respondent at his address of record, 120 Ford Street, Ukiah, California on November 1, 2001.
23 Respondent has failed to contact Dr. Thomas for the evaluation, has not made an appointment for
24 the evaluation or undergone the ordered examination.

25 16. Respondent has failed to comply with the order issued to him under
26 Section 820 of the Code, and therefore cause exists for the suspension or revocation of
27 respondent's license to practice psychology pursuant to Section 821 of the Code.

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PRAYER


WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Psychology issue a decision:

1. Revoking or suspending Psychologist's License Number PSY 5603, issued to Walter M. Farrell, Ph.D.;

2. Ordering Walter M. Farrell, Ph.D. to pay to the Board the reasonable costs of the investigation and enforcement of this case, and, if placed on probation, the costs of probation monitoring; and

3. Taking such other and further action as deemed necessary and proper.

DATED: February 8, 2002.


THOMAS S. O'CONNOR
Executive Officer
Board of Psychology
State of California
Complainant

Farrell.AmendedAcc

DECLARATION OF SERVICE BY CERTIFIED MAIL

In the Matter of the Accusation Filed
Against:

Walter M. Farrell, Ph.D.

No. : W218

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 1422 Howe Avenue, Ste. 22 Sacramento, California 95825. I served a true copy of the attached:

DECISION AND ORDER

by mail on each of the following, by placing same in an envelope (or envelopes) addressed (respectively) as follows:

NAME AND ADDRESS

CERT NO.

Walter M. Farrell, Ph.D.
120 Ford Street
Ukiah, CA 95482

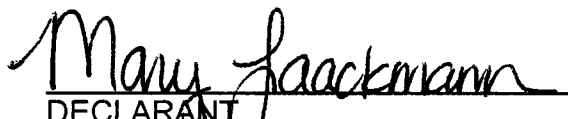
7001 2510 0001 2147 4494

Vivien H. Hara
Supervising Deputy Attorney General
455 Golden Gate Ave., Ste. 11000
San Francisco, CA 94102-7004

Each said envelope was then on, May 22, 2002, sealed and deposited in the United States mail at Sacramento, California, the county in which I am employed, as certified mail, with the postage thereon fully prepaid, and return receipt requested.

Executed on, May 22, 2002, at Sacramento, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.


DECLARANT
Mary Laackmann
Enforcement Analyst